

(d) *Records.* Any handler who receives disposition credit under paragraph (c) of this section shall maintain records, as required in this part, to support:

(1) The accuracy of such handler's certification made in accordance with this section; and

(2) Any disposition credit that is requested by such handler in accordance with this section.

(e) *Annual review.* The marketing association or employees of TPD shall conduct an annual review of the certifications made by handlers in accordance with this section.

(f) *Inaccurate certification.* In the case of an inaccurate certification, the disposition credit shall be adjusted accordingly. Such action shall be in addition to any other remedy, including, but not limited to, any civil or criminal remedy for fraud, as may apply.

### Subpart G—Penalties and Liquidated Damages

#### § 1446.701 Excess marketing of quota peanuts.

A handler will be subject to a penalty for noncompliance with this part, if, as determined under this part, from any crop of peanuts, such handler markets, for domestic edible use, a larger quantity, or higher grade or quality of peanuts, than could reasonably be produced from the quantity of peanuts having the grade, kernel content, and quality of farmers stock peanuts purchased by the handler during the applicable marketing year as quota peanuts, including those peanuts purchased in accordance with the "immediate buyback" provisions of this part. In such case, the penalty will be an amount equal to 140 percent of the national average quota support rate for the applicable crop, times that quantity of farmers stock peanuts which are determined by CCC to be necessary to produce the excess quantity or grade or quality of peanuts marketed.

#### § 1446.702 Peanuts ineligible for quota loan.

Any person who causes or permits peanuts that are not eligible peanuts to be pledged as collateral for a loan at the quota loan rate shall be considered to have agreed that:

(a) CCC may incur serious and substantial damage to its program to support the price of quota peanuts because such peanuts were pledged as collateral for a quota loan;

(b) The amount of such damages will be difficult, if not impossible, to ascertain exactly; and

(c) Such person shall, with respect to any ineligible peanuts placed under quota loan, pay to CCC, as liquidated damages and in addition to any penalty that is due, the difference between the quota loan rate for such peanuts and the additional loan rate that would apply to peanuts of the same type and quality, times the amount of such peanuts that were placed under loan. It is agreed that such liquidated damages are a reasonable estimate of the probable actual damages which CCC would suffer. Such person shall pay the damages to CCC promptly upon demand in addition to penalties as may be due or assessed. Liquidated damages under this section may be reduced by CCC based upon consideration of the following factors:

(1) Whether the person causing or permitting ineligible peanuts to be placed in the loan program made a good faith effort to ensure that ineligible peanuts were not pledged as loan collateral;

(2) The degree of damage or potential damage to the price support program caused by the violation;

(3) The nature and circumstances of the violation;

(4) The extent of the violation; and

(5) Any other pertinent information.

#### § 1446.703 Assessment of penalties against handlers.

(a) *Penalty liability.* A handler shall be subject to the penalty for a violation of any provision of this part including, but not limited to, any or all of the following violations:

(1) Failure to register as a handler of peanuts;

(2) Failure to examine and make entries on marketing card;

(3) Failure to keep or make available records as required by this part;

(4) Marketing excess quota peanuts, as set forth in this part, including any marketing of reentered contract additional peanuts or peanut products

made from contract additional peanuts or any marketing of imported peanut products made from additional peanuts purchased from the inventory of CCC loan collateral peanuts;

(5) Failure to store and account for contract additional peanuts in accordance with the requirements of this part;

(6) Failure to export or dispose of contract additional peanuts in accordance with the requirements of this part or failure to export or crush such peanuts by the final disposition date as established in this part;

(7) Failure to obtain supervision of, or to handle properly, contract additional peanuts in the manner required by this part;

(8) Reentering or importing contract additional peanuts or products made from such peanuts as prohibited by this part; or

(9) Failure to comply with any other provision of this part.

(b) *Amount of penalty.* Except when reduced in accordance with this part, the penalty amount for any violation of this part shall be equal to 140 percent of the national average quota support rate for the applicable crop year times the quantity of peanuts:

(1) Handled by an unregistered handler;

(2) Not properly entered on the marketing card;

(3) For which records have not been properly kept or made available;

(4) Marketed as excess quota peanuts;

(5) Not properly stored;

(6) Not properly disposed of;

(7) Not properly supervised or handled in accordance with the regulations of this part;

(8) Imported as contract additional peanuts;

(9) Determined by CCC to have been necessary to produce the quantity of peanut products which have been determined to have been made from contract additional peanuts, and imported and sold in the United States; or

(10) Otherwise involved in such other violation of this part as may occur.

(c) *Notice of assessment.* A handler shall be notified in writing of the assessment of a penalty by a CCC contracting officer. Such notice shall state the basis for the assessment of the pen-

alty, and shall advise the handler of the handler's appeal rights under this part.

(d) *Interest liability.* The person liable for payment or collection of any penalty provided for in these regulations shall be liable also for interest thereon at a rate per annum equal to the rate of interest which was charged CCC by the Treasury of the United States on the date such penalty became due. The date on which the penalty became due shall be the date on which the penalty was first assessed.

(e) *Applicability.* The provisions of this section are in addition to other remedies provided for by this part or other provisions of law.

[56 FR 16230, Apr. 19, 1991, as amended at 56 FR 38331, Aug. 13, 1991; 57 FR 27145, June 18, 1992]

#### § 1446.704 Reductions of penalties.

(a) *Request for reconsideration.* A handler who is dissatisfied with a penalty that has been assessed against such handler by the CCC Contracting Officer pursuant to this part may file a written request for reconsideration or reduction of the penalty that has been assessed. Such request must be made within 15 days after the date of the notice of assessment.

(b) *Reduction of penalties.*

(1) *By CCC Contracting Officer.* To the extent permitted by the provisions of paragraph (d) of this section, the CCC Contracting Officer may reduce the amount of penalty that is otherwise determined or assessed in accordance with this part. Such reduction may be made before the penalty is assessed or may be made during the course of an appeal.

(2) *By the Executive Vice President, CCC.* To the extent permitted by the provisions of paragraph (d) of this section, the Executive Vice President, CCC, or the Executive Vice President's designee, may reduce the amount of penalty that has been assessed in accordance with this part.

(c) *Reduction criteria.* A penalty that is determined or assessed in accordance with this part may be reduced by the CCC Contracting Officer or the Executive Vice President, CCC, or the Executive Vice President's designee, if such person determines that: